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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/612,829	07/07/2000	Howard Gregg King	4396D1	8746

22896 7590 02/17/2004

MILA KASAN, PATENT DEPT.
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY, CA 94404

EXAMINER

STARSIAK, JOHN S

ART UNIT PAPER NUMBER

1753

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/612,829

Applicant(s)

KING ET AL.

Examiner

John S. Starsiak Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/28/00</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Demorest.

The claims read on the operation of Demorest. The “providing step” in claim 14 and the limitation recited in claim 15 read on providing a sample in any of the vials 131 in auxiliary block 127. The temperature of the vials is controlled because Demorest teaches [column 7, lines 59-64]: “Although not shown, there are removable outer covers for enclosing the cassette, carriages, and other elements. Temperature control devices within enclosure 63 provide temperature management within the enclosure in operation, typically in a range of from 10 to 50 degrees C.” The “transferring of the sample” step and “injecting” step recited in claim 14 and the limitations recited in claims 16 and 17 read on the following description of the operation of the device of Demorest [column 10, lines 2-20]: “The operation of the sample injection is illustrated in FIG. 3B. Probe 69 passes to a selected sample S in a vial 131 in block 127 (or in any other similar sample vial) shown as position A, by operation of the X-Y-Z translation subsystem. Probe 69 submerges in the sample, and by operation

of syringe pump 122 withdrawing a finite amount, a volume of sample is withdrawn from the vial into the probe tip. The probe tip is then translated from the sample vial into the inlet buffer reservoir, which may be either of the buffer reservoirs. In this case, buffer reservoir 19 will be the inlet buffer reservoir. The probe tip is lowered through passthrough 97 to a depth in the run buffer where the probe tip is immediately adjacent to the end of the capillary, as shown in position B. An electrical potential is now applied across electrodes 123 and 133, or 87 and 133, or both. The potential causes electromigration of charged analytes from the probe tip into the capillary".

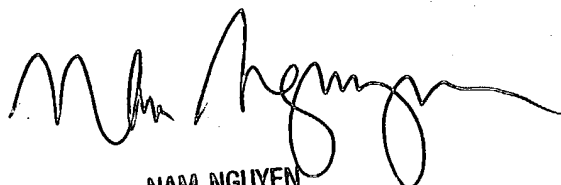
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Starsiak Jr. whose telephone number is (571) 272-1346. The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen, can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



NAM NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700



John S. Starsiak Jr.

02 February 2004